



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Lawrence E. Gunn, Sr.,
Bus Operator
Miami-Dade County Department of Transportation and Public Works

Jeffrey Townsley, Sr.,
Former Employee
Miami-Dade County Department of Transportation and Public Works

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-118, Section 2-11.1(c), Limitations on Contracting with the County;
Section 2-11.1(j), Conflicting Employment Prohibited; Section 2-11.1(q),
Continuing Application after County Service.

DATE: July 22, 2022

CC: Lawrence Gunn, Jr., Police Officer, Miami-Dade Police Department; Jeffrey
Townsley, Jr., Bus Traffic Controller, Miami-Dade Transportation and Public
Works; All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest concerning applying for a Target Urban Area Small Business Capitalization Program (“TUA-SBC”) grant funded by Miami-Dade Economic Advocacy Trust (“MDEAT”).

Facts

Mr. Lawrence Gunn, Sr., is employed by the Miami-Dade Department of Transportation and Public Works (“DTPW”) as a Bus Operator. His job responsibilities are primarily as shop steward of the Northeast Division and, in conjunction with his role as Vice-President of the Transporters Union Local 291, he advocates for DTPW employees regarding departmental discipline. Mr. Gunn, Sr.’s son, Mr. Lawrence Gunn, Jr., is also employed by the County, specifically by the Miami-Dade Police Department (“MDPD”) as a Police Officer. The job responsibilities of Mr. Gunn, Sr., and Mr. Gunn, Jr., do not include any oversight or administration of the MDEAT TUA-SBC Grant Program.

Mr. Jeffrey Townsley, Sr., is a former employee of the DTPW, having retired from being a Bus Operator in August 2021. Mr. Townsley, Sr.'s son, Mr. Jeffrey Townsley, Jr., is also employed by the County, specifically by the DTPW as a Bus Traffic Controller. The job responsibilities of Mr. Townsley, Jr., do not include any oversight or administration of the MDEAT TUA-SBC Grant Program.

Mr. Gunn, Sr., and Mr. Townsley, Sr., own and operate a Florida corporation named The Financial Stability Group, Inc. ("FSG"), which does business as Sam's Car Care providing car cleaning and detailing services. Mr. Gunn, Sr., and Mr. Townsley, Sr., own FSG in equal parts with a third individual who is not a County employee. Mr. Townsley, Sr., would like to apply for the MDEAT TUA-SBC grant on behalf of FSG.¹

The TUA-SBC grant is funded by MDEAT. Through the Program, MDEAT makes available grants for small to medium minority businesses in the North Dade and South Dade areas in the amount of \$2,500.00 each to improve or stabilize neighborhood businesses located in TUAs or TUA Corridors.² MDEAT will select the top eight applicants each from the North Dade and South Dade areas and has allocated \$40,000.00 to this grant process, to be evenly divided between the North Dade and South Dade areas.³

Issue

Whether there is a prohibited conflict of interest that would prevent FSG from accepting an MDEAT TUA-SBC grant because of the current or former County employment by two of FSG's owners and/or their immediate family members.

Analysis

This inquiry involves several sections of the Miami-Dade County Code of Ethics and Conflict of Interest Ordinance ("County Ethics Code"), each of which is analyzed in turn below:

A. Outside Employment

Work conducted for FSG by Mr. Gunn, Sr., constitutes outside employment, as defined by the County Ethics Code. The County Ethics Code prohibits County employees from accepting outside employment, "which would impair his or her independence of judgment in the performance of his or her public duties." Section 2-11.1(j). Additionally, Miami-

¹ Mr. Gunn, Sr., and Mr. Townsley, Sr., previously sought an MDEAT TUA-SBC grant on behalf of FSG as well as an ethics opinion concerning that application. *See* INQ 21-63.

² *See Small Business Capitalization Grant*, SMALL BUSINESS AND ECONOMIC DEVELOPMENT, https://www.miamidade.gov/global/service.page?Mduid_service=ser154343669764511 (last visited July 21, 2022) (follow "Download program application" link).

³ *Id.*

Dade County Administrative Order 7-1 provides that, “[u]nder no circumstances shall a County employee accept outside employment . . . where a real or apparent conflict of interest with one’s official or public duties is possible.” Conflicting employment can occur when a County employee encounters the same or similar persons or entities in both her County and outside employment. County employees may not use County time or resources in the performance of their outside employment. *See* INQ 21-27; INQ 20-21.

Based on the information provided to us at this time, it appears to be unlikely that the type of outside employment that Mr. Gunn, Sr., engages in through his partial ownership and operation of FSG would impair his independence of judgment in the performance of his County duties as a Bus Operator with DTPW. *See* INQ 21-27; INQ 20-21.

However, County department directors and their subordinate supervisors have the discretion to deny a request for outside employment if they determine that, at any time, the proposed outside employment would be contrary, detrimental, or adverse to the interests of the County or the employee’s department. *See* AO 7-1; RQO 16-02; RQO 00-10; INQ 13-28. **Accordingly, this memorandum does not grant permission to engage in outside employment. Mr. Gunn, Sr., must obtain permission to engage in outside employment yearly from his department director. Given that he is a full-time employee, he must also file an outside employment financial disclosure form – Outside Employment Statement – on an annual basis.** *See* INQ 21-63.

B. MDEAT TUA-SBC Grant

The County Ethics Code Sections 2-11.1(c)(1) and (d) of the County Ethics Code prohibit County employees and members of their immediate family⁴ from contracting or transacting business with the County, individually or through a business in which they have a controlling financial interest. However, the County Ethics Code provides a limited exclusion from the general prohibition on doing business with the County, so long as:

- (1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County,
- (2) the employee has not participated in determining the subject contract requirements or awarding the contract, and
- (3) the employee’s job responsibilities and job description will not require him or her to be involved with the contract in any way, including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance.

See County Ethics Code § 2-11.1(c)(2). With regard to the MDEAT TUA-SBC grants, this means that a private business owned/operated by a County employee or an immediate family member of a County employee may accept grant funds so long as the County employee’s department is not involved with the grant process in any way. *See* INQ 19-71

⁴ Immediate family includes parents and children. *See* County Ethics Code § 2-11.1(b)(9).

(private business owned/operated by a Clerk of Courts employee may apply for and accept MDEAT TUA-SBC grants so long as the Clerk of Courts is not involved in any way in processing or administering the grant); INQ 18-198 (same).

Accordingly, FSG **may accept the MDEAT TUA-SBC grant** so long as the DTPW and/or MDPD are not involved in any way in processing or administering the grant. *See* INQ 21-63; INQ 19-71; INQ 18-198. This includes the condition that Mr. Gunn, Sr., as well as Mr. Gunn, Jr., and Mr. Townsley, Jr., may not participate in determining or awarding the grants. Additionally, none of their respective job responsibilities or job descriptions may require them to be involved in the grants in any way, including enforcement, oversight, administration, amendment, extension, termination, or forbearance. *See* County Ethics Code §§ 2-11.1(c), (n); *see also* INQ 19-71; INQ 18-198.

C. Lobbying

Mr. Gunn, Sr., Mr. Gunn, Jr., and Mr. Townsley, Jr., may not lobby the County. In this case, it means that each of them may not contact anyone within the County in an attempt to influence a decision about FSG's application for an MDEAT TUA-SBC grant. *See* County Ethics Code § 2-11.1(m)(1).

D. Exploitation of Official Position

The County Ethics Code prohibits County employees from exploitation of their official position. *See* County Ethics Code § 2-11.1(g). This means that Mr. Gunn, Sr., Mr. Gunn, Jr., and Mr. Townsley, Jr., may not use their respective County positions to secure any special privilege or exemption with respect to FSG's application to, and ultimate participation in, the MDEAT TUA-SBC Grant Program, or to any other grant program to which FSG is applying. *See* INQ 21-63; INQ 19-71; INQ 18-198.

E. Two-Year Rule

County Ethics Code Section 2-11.1(q)(1) provides that former County employees are prohibited from *lobbying* the County for two years after they cease County employment. This is commonly referred to as the Two-Year Rule. *See* INQ 19-85; INQ 16-78. The lobbying activities prohibited by the Two-Year Rule are more expansive than those covered by the general lobbying subsection of the County Ethics Code. *See* INQ 19-85. As such, **within the two-year period covered by the Two-Year Rule, former County employees are prohibited from arranging or participating in any meetings, negotiations, oral presentations, or other discussions directly with County officials or staff for the purpose of influencing the County elected official, staff, or employee to take any type of official action, decision, or recommendation.** *See* INQ 16-151 (citing RQO 04-33, RQO 02-139). However, inquiries involving procedural questions, such as confirming receipt of applications or inquiries about the status of submitted applications are not considered lobbying; rather, they are routine administrative matters. RQO 04-33; *see also* INQ 16-151.

Here, the application of the Two-Year Rule means that **Mr. Townsley, Sr., may not engage in any meetings, negotiations, presentations, or other discussions with County officials or staff regarding FSG’s current application for an MDEAT TUA-SBC grant.** Nevertheless, Mr. Townsley, Sr., may have limited contact with County officials or staff regarding the status of FSG’s application for an MDEAT TUA-SBC grant and confirm with them the receipt of FSG’s application. Furthermore, Mr. Townsley, Sr., would be permitted to engage in communications with County officials or staff concerning already approved contracts, so long as those communications are not intended to influence the award, amendment, or modification of the contract. *See* INQ 17-181. Accordingly, if the MDEAT TUA-SBC grant selection committee awards an MDEAT TUA-SBC grant to FSG, then Mr. Townsley, Sr., may communication with County officials or staff to accept the already-awarded grant.

Opinion

Based on the facts presented here and discussed above, FSG’s application for and acceptance of an MDEAT TUA-SBC grant **does not appear to give rise to any prohibited conflict of interest, subject to the limitations discussed above.**

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

This opinion is limited to the facts as presented to the Commission on Ethics and to an interpretation of the County Ethics Code only. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Commission on Ethics or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.